

REMARKS:

Claims 10-22, 25, and 27-42 were pending in the application at the time of the Office Action. No claims are added, canceled, or amended herein. Therefore, claims 10-22, 25, and 27-42 remain pending in this application.

Statement of Substance of Interview

Applicant thanks the Examiner for extending the courtesy of conducting a telephone interview on October 18, 2010. Participating in the interview were Examiner Monikang and Applicant's undersigned representative. The claims were discussed in view of the rejections and the cited art. No agreement was reached.

Art-Based Rejections

All pending claims stand rejected under 35 U.S.C. § 103(a) as being unpatentable over various combinations of Yoshizaki (US Patent 5,870,365), Kamon (US Patent Pub. 20040141446), Ashenafi (US Patent 6072753), Graumann (US Patent Pub. 2004/0264711), Smith (US Patent Pub. 2002/0173864), and Fielder (US Patent 5,845,240).

Applicant respectfully traverses the rejections, and submits that a *prima facie* case of obviousness has not been established. For example, claim 10 recites the features "receiving input indicative of a user-specified length of time" and "retrieving data from the buffer" that "is representative of the incoming sound received during an interval of time preceding the first point in time" at which "the incoming sound satisfies an initiation criteria," "wherein the interval of time has a length corresponding to the user-specified length of time" which are not taught or suggested by the cited references, alone or in combination.

In rejecting claim 10, the Examiner correctly acknowledges that the "[t]he combined teachings of Yoshizaki et al and Kamon fail to disclose the device receiving input indicative of a user-specified length of time, and also wherein the interval of time has a length corresponding to the user-specified length of time." Office Action at 4-5. However, the Office Action relies on Ashenafi as allegedly disclosing above-mentioned features. *See* Office Action at 5. Specifically, the Office Action asserts as follows:

However, Ashenafi discloses a recording system where **a user specifies an interval of time for recording** (Ashenafi, col. 5, lines 5-19). It would have been obvious to modify the Yoshizaki et al and Kamon system such that **a user could also specify a time interval for recording** for the purpose of making the system more dynamic.

Office Action at 5 (emphasis added). The Office Action cites a portion of Ashenafi's claim 1, which recites as follows:

said programmable timer automatically energizing said power output connector during said at least one user-defined interval of time, said user-defined interval of time is defined by data entered through an input peripheral unit connected to the programmable timer, said data includes a start time, a stop time, a start day of the week and a stop day of the week and a means for alternatively setting a mode for a single interval of time, a daily interval of time, and a weekly interval of time wherein when the single mode is set only a single recording is made; when the daily mode is set, the interval repeats at the same time every day; and when the weekly mode is set, the interval repeats on the same time on the same day every week;

Ashenafi at col. 5, lines 5-19. Thus, the cited portion of Ashenafi discloses a "programmable timer" in which a "user defined interval of time" may be defined by "a start time, a stop time, a start day of the week and a stop day of the week" such that "when the daily mode is set, the interval repeats at the same time every day; and when the weekly mode is set, the interval repeats on the same time on the same day every week." Further illustrating these features, Ashenafi describes that "[i]t is contemplated that the [disclosed recording] device be programmable to permit multiple start/stop intervals including daily and weekly intervals." Ashenafi at Abstract.

Applicant submits that the combination of Yoshizaki, Kamon, and Ashenafi fails to teach or suggest the features "receiving input indicative of a **user-specified length of time**" and "retrieving data from the buffer" that "is **representative of the incoming sound received during an interval of time preceding the first point in time**" at which "the incoming sound satisfies an initiation criteria," "wherein the interval of time has a length corresponding to the user-specified length of time" recited in claim 10. For example, consider the result of the proposed combination. Yoshizaki is directed to a "control unit" in which "*an inherent delay time is obtained by calculating the difference between the first and second time*" "to obtain a time lapse" such that a start ID is recorded" "at an appropriate position" to prevent "omission of a head portion of the digital audio signal when the digital audio signal is reproduced." Yoshizaki

at Abstract. The Office Action relies on Kamon “to illustrate a recording system where the audio data is being recorded wirelessly from a remote location.” Office Action at 4. As noted above, Ashenafi describes that “[i]t is contemplated that the [disclosed recording] device be [user] programmable to permit multiple start/stop intervals including daily and weekly intervals.” Ashenafi at Abstract. Accordingly, Applicant submits that the proposed combination of Ashenafi with Yoshizaki and Kamon results in, at best, a wireless recording device that “permits *[programming] multiple start/stop intervals* including daily and weekly intervals,” where each of the multiple programmable start/top intervals includes “*an inherent delay time [that] is obtained by calculating*.” In contrast, the Examiner’s appears to suggest that the combination results in a **user programmable delay time** that allegedly corresponds to the claimed “interval of time preceding the first point in time” of claim 1. *See id.* at 4-5. Such a suggestion is flawed, as it cannot be said that a disclosure of programmable “start/stop intervals including daily and weekly intervals” combined with a disclosure of “an inherent delay time [that] is obtained by calculating” results in a user programmable delay time.

The other cited references fail to cure the above-discussed deficiencies of Yoshizaki, Kamon, and Ashenafi. The Smith reference is simply directed to “a method and system for digitally and automatically adjusting the audio volume of digitized speech signals.” Smith at Abstract. Fielder is directed to “selectively recording or recalling events.” Fielder at Abstract. Fielder discloses “enabling a user to select a portion or portions of said record of the most recent events recorded in said acquisition buffer, in order to determine which portions . . . will be preserved.” *Id.* Applicant submits that neither Smith nor Fielder teach or suggest the features “receiving input indicative of a user-specified length of time” and “retrieving data from the buffer” that “is representative of the incoming sound received during an interval of time preceding the first point in time” “wherein the interval of time has a length corresponding to the user-specified length of time” recited in amended claim 10. The Examiner does not contend otherwise.

For at least the reasons stated above, even assuming *arguendo* that the motivation to combine the cited references suggested by the Examiner is proper (which Applicant does not concede), the proposed combinations do not teach or suggest all of the features of claim 10. Accordingly, a *prima facie* of obviousness of claim 10 and the claims that depend therefrom has not been established. Similar remarks also apply to independent claims 21, 28, 32, and 34, as well

as the claims that depend therefrom, although these claims have different scope than claim 10. Accordingly, a *prima facie* of obviousness of those claims has not been established. Applicant respectfully requests reconsideration and removal of the present rejections.

CONCLUSION:

Applicant respectfully submits the application is in condition for allowance, and an early notice to that effect is requested.

If any extension of time (under 37 C.F.R. § 1.136) is necessary to prevent the above-referenced application from becoming abandoned, Applicant hereby petitions for such extension.

The Commissioner is authorized to charge any fees that may be required, or credit any overpayment, to Meyertons, Hood, Kivlin, Kowert & Goetzel, P.C. Deposit Account No. 501505/6057-27400/EM.

Respectfully submitted,

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